



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463  
November 5, 2008

RQ-2

Jan Churchill, Treasurer  
Nevada State Democratic Party  
409 Horn Street  
Las Vegas, NV 89107

Response Due Date:  
December 8, 2008

Identification Number: C00208991

Reference: October Monthly Report (9/1/08-9/30/08)

Dear Treasurer:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. This notice requests information essential to full public disclosure of your federal election campaign finances. **Failure to adequately respond by the response date noted above could result in an audit or enforcement action.** Additional information is needed for the following 9 items:

1. The totals listed on Lines 21(a)(i), 21(a)(ii), 21(b), 21(c), 29 and 32, Column B of the Detailed Summary Page(s) appear to be incorrect. Please be advised that you should add the "Calendar Year-to-Date" total from your previous report to the current "Total This Period" figure from Column A to derive the correct Column B totals. Please amend your report and any subsequent reports that may be affected by this correction.

2. Schedule A supporting Line 15 of your report discloses a payment(s) from "Nevada Senate Democrats" which does not appear to be a political committee(s) registered with the Commission. It appears the receipt(s) was for goods and/or services provided by your committee. Pursuant to Advisory Opinion 1979-18, the sale/purchase price paid to a political committee could involve the receipt of a contribution from a purchaser if the purchase price exceeds the "usual and normal charge". The term "usual and normal charge" for goods is defined as the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution. Examples of goods and services include equipment, supplies, personnel, advertising services, membership lists, and mailing lists. 11 CFR §100.52(d)(1)

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Please clarify whether your committee assessed the usual and normal charge for the goods and/or services you provided and explain the steps your committee took in determining the amount charged. If your committee provided the goods and/or services at more than the usual and normal charge, the difference between the two is considered to be an in-kind contribution(s) received by your committee from an unregistered organization(s) and is prohibited subject to the limits set forth at 2 U.S.C. §§441a(f) and 441b or 11 CFR §102.5(b).

3. Please amend your report by providing the purpose for each disbursement itemized on Schedule(s) B supporting Line(s) 30(b).

4. Schedule B of your report discloses reimbursements to individuals for "Campaign button." Please be advised that when itemizing reimbursements to individuals for goods or services, if the payment to the original vendor aggregates \$200 or more in a calendar year, a memo entry including the name and address of the original vendor, as well as the date, amount and purpose of the original purchase must be provided. Please amend your report to include the missing information and clearly identify on the Schedule B, which reimbursement each memo entry relates to. If itemization is not necessary, you must indicate so in an amendment to this report. 11 CFR §300.36(b), and Advisory Opinions 1992-1 and 1996-20, footnote 3

5. Schedule A supporting Line 12 discloses a transfer(s)-in from the "Democratic National Committee" and "Democratic Congressional Campaign Committee". Schedule(s) B supporting Line 30(b) reflects payments for "Campaign button", "Volunteer exempt mailpiece" and "Volunteer exempt mailpiece". Please be advised that a state or local party committee may pay for campaign materials (such as bumper stickers, pins and yard signs) that are distributed by volunteers in connection with activity on behalf of the party's nominees in a general election and voter drive activity on behalf of the party's Presidential and Vice Presidential nominees. Payments for this type of activity are exempt from the definition of a contribution or expenditure if certain conditions are met. The conditions are that no public advertising may be used, including distribution by direct mail (mailings by a commercial vendor or from commercial lists); all funds used for the activity must be permitted under the Act; none of the funds used may have been designated for a particular candidate; and finally, payments for the activity may not be made from transfers-in from the national committee to specifically fund the activity. For further guidance, please refer to 11 CFR §§100.87 and 100.147 and to the Campaign Guide for Party Committees.

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Please clarify the nature of the transfer(s)-in and subsequent payments for the aforementioned disbursement(s). If the activity disclosed on your report does not meet the definition of "exempt" activity as described above, any portion of the expenditures made on behalf of specifically identified candidates must be disclosed on Schedule B, E or F supporting Line 23 or 30(b), 24 or 25 of the Detailed Summary Page as appropriate.

6. On Schedule H4, your allocated activity or event year-to-date total calculations for the administrative category are incorrect. Allocated activity or event year-to-date totals for administrative, voter drive, exempt activity costs and expenses for public communications made by PACs referencing only political parties are derived by aggregating all disbursements during the calendar year for each separate category. Allocated activity or event year-to-date totals for fundraising and direct candidate support activities are derived by aggregating all disbursements during the calendar year within a specific event. These should be calculated by adding the latest disbursement for a category or event to the previous event year-to-date total for that category or event. This running event year-to-date total should be disclosed after each disbursement is listed. Please amend your report by providing the correct event year-to-date totals.

7. Please amend your report by providing the purpose for each disbursement itemized on Schedule(s) H4 supporting Line(s) 21(a).

8. Itemized disbursements must include a brief statement or description of why the disbursements were made. Please amend Schedule(s) H4 of your report to clarify the following description(s): "Political consulting fee." For further guidance regarding acceptable purposes of disbursements, please refer to 11 CFR §104.3(b)(3).

9. Schedule H4 of your report discloses an apparent disbursement(s) to "NDP Non-Federal CC" and "NDP Non-Federal". Further, your report indicates that these disbursements represent the nonfederal portion of a refund(s) or rebate(s) of a previously allocated expense. Please be advised that contributions and transfers to federal committees and/or non-federal committees/organizations do not qualify as shared expenses to be allocated between your federal and non-federal accounts.

Please be advised that the federal account must transfer the non-federal portion of refund(s) or rebate(s) of allocated expenses to the non-federal account using one of two methods. The method of reporting described in Advisory Opinion 1995-22 allows a committee to itemize the refund or rebate as a negative entry on Schedule H4. Alternatively, a committee may

disclose the receipt of the refund or rebate into the federal account on Schedule A supporting Line 15, and the transfer of the non-federal account's share to the non-federal account as a 100% federal disbursement on Schedule H4. Please refer to the enclosed sample of properly reported refunds and rebates of allocable activity and amend your report as appropriate.

Any reimbursement from your committee's non-federal account for any portion of this activity is not permissible. 11 CFR §102.5(a)(1)(i) The Commission recommends that you immediately transfer the funds received by your federal account, as reimbursement for the non-federal portion, back to your non-federal account. Although the Commission may take further legal action concerning this prohibited activity, your prompt action will be taken into consideration.

**Please note, you will not receive an additional notice from the Commission on this matter.** Adequate responses must be received by the Commission on or before the due date noted above to be taken into consideration in determining whether audit action will be initiated. Failure to comply with the provisions of the Act may also result in an enforcement action against the committee. Any response submitted by your committee will be placed on the public record and will be considered by the Commission prior to taking enforcement action. **Requests for extensions of time in which to respond will not be considered.**

Electronic filers must file amendments (to include statements, designations and reports) in an electronic format and must submit an amended report in its entirety, rather than just those portions of the report that are being amended. If you should have any questions regarding this matter or wish to verify the adequacy of your response, please contact me on our toll-free number (800) 424-9530 (at the prompt press 5 to reach the Reports Analysis Division) or my local number (202) 694-1141.

Sincerely,



Daniel T. Buckley  
Senior Campaign Finance Analyst  
Reports Analysis Division

# SAMPLE

## Allocating Certain Federal and Nonfederal Expenses

### ALLOCATION OF REBATE (H4) (METHOD 1)

SCHEDULE H4 (FEC Form 3X) DISBURSEMENT FOR SHARED FEDERAL/NON-FEDERAL ACTIVITY SCHEDULE				PAGE 1 OF 1 FOR LINE 21a OF FORM 3X
NAME OF COMMITTEE (in full) Freedom Party State Committee				
A. Full Name (Last, First, Middle Initial) Acme Office Supplies		Appointed Activity or Event: <input checked="" type="checkbox"/> Administrative <input type="checkbox"/> Fundraising <input type="checkbox"/> Exempt <input type="checkbox"/> Voter Drive <input type="checkbox"/> Direct Candidate Support		
Mailing Address 111 Pendleton St.		Allocated Activity or Event Year-To-Date 6,600.00		
City City	State ST	Zip Code 00000	Date 03 15 2008	
Purpose of Disbursement: Rebate		Category Type 001		
Activity or Event Identifier:				
FEDERAL SHARE +		NON-FEDERAL SHARE =		TOTAL AMOUNT
-144.00		-256.00		-400.00

### RECEIPT OF REBATE (A/LINE 15) (METHOD 2)

SCHEDULE A (FEC Form 3X) ITEMIZED RECEIPTS		Use separate schedule(s) for each category of the Detailed Summary Page	FOR LINE NUMBER: (check only one)												
Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.		<table border="1"> <tr> <td>11a</td> <td>11b</td> <td>11c</td> <td>12</td> </tr> <tr> <td>13</td> <td>14</td> <td><input checked="" type="checkbox"/> 15</td> <td>16</td> </tr> <tr> <td></td> <td></td> <td></td> <td>17</td> </tr> </table>		11a	11b	11c	12	13	14	<input checked="" type="checkbox"/> 15	16				17
11a	11b	11c	12												
13	14	<input checked="" type="checkbox"/> 15	16												
			17												
NAME OF COMMITTEE (in full) Freedom Party State Committee															
A. Full Name (Last, First, Middle Initial) Acme Office Supplies		Date of Receipt 03 15 2008													
Mailing Address 111 Pendleton St.		Amount of Each Receipt this Period 400.00													
City City	State ST	Zip Code 00000	Refuse.												
FEC ID number of contributing federal political committee: C		Aggregate Year-to-Date 400.00													
Name of Employer		Occupation													
Rebate For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)		Aggregate Year-to-Date 400.00													

### NONFEDERAL TRANSFER (H4) (METHOD 2)

SCHEDULE H4 (FEC Form 3X) DISBURSEMENT FOR SHARED FEDERAL/NON-FEDERAL ACTIVITY SCHEDULE				PAGE 1 OF 1 FOR LINE 21a OF FORM 3X
NAME OF COMMITTEE (in full) Freedom Party State Committee				
A. Full Name (Last, First, Middle Initial) Freedom Party State Committee Nonfederal Account		Appointed Activity or Event: <input checked="" type="checkbox"/> Administrative <input type="checkbox"/> Fundraising <input type="checkbox"/> Exempt <input type="checkbox"/> Voter Drive <input type="checkbox"/> Direct Candidate Support		
Mailing Address 123 Washington St.		Allocated Activity or Event Year-To-Date		
City City	State ST	Zip Code 00000	Date 03 15 2008	
Purpose of Disbursement: Transfer of Nonfederal Share of Rebate		Category Type 001		
Activity or Event Identifier: (See Schedule A)				
FEDERAL SHARE +		NON-FEDERAL SHARE =		TOTAL AMOUNT
256.00		0.00		256.00

## 9. Refunds and Rebates of Allocable Expenses

If a committee receives a refund or a rebate of an allocable expense, the refund or rebate must be deposited in the federal or allocation account. The refund or rebate must then be allocated between the federal and nonfederal accounts according to the same allocation ratio used to allocate the original disbursement. The federal account must transfer the nonfederal portion to the nonfederal account.

### Example

A committee receives a \$400 rebate on office equipment from the Acme Office Store. The original purchase was an administrative expense allocated according to the following ratio: 36 percent federal; 64 percent nonfederal.

Reporting Method 1 illustrates how this rebate would be reported according to the method approved in Advisory Opinion (AO) 1995-22.<sup>1</sup> Reporting Method 2 shows how the rebate would be reported under an alternative method.

#### Reporting Method 1

Using the method of reporting described in AO 1995-22, the committee discloses the receipt of the rebate and the federal and nonfederal shares on Schedule H4. The amounts are negative entries subtracted from total shared federal and nonfederal disbursements

for the reporting period (disclosed on Lines 21a(i) and (ii) of the Detailed Summary Page).

<sup>1</sup> Although AO 1995-22 is no longer applicable to national party committees as of 2002, it may still apply to state, district and local party committees.

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